

FILED

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MONTANA
MISSOULA DIVISION

JUL 20 2015

Clerk, U.S. District Court
District Of Montana
Missoula

K. TY POULSON

Plaintiff,

vs.

EXECUTIVE DIRECTOR OF
CONNECTIONS CORRECTIONS,
MARK JOHNSON, and PAUL SELLS,

Defendants.

CV 15-0070-M-DLC-JCL

Related Cases:

14-CV-43-H-DLC-JTJ,
14-CV-185-M-DLC-JCL

FINDINGS AND
RECOMMENDATIONS OF
UNITED STATES MAGISTRATE
JUDGE

Plaintiff K. Ty Poulson, a prisoner at Montana State Prison, proceeding without counsel, filed a Complaint (Doc. 1) alleging a violation of the Americans with Disabilities Act, 42 U.S.C. § 12132, et seq., invoking subject matter jurisdiction pursuant to 28 U.S.C. § 1331. On June 23, 2015, this Court issued an Order finding that Poulson has three pending non-habeas civil actions in this Court. Since he had been granted leave to proceed in forma pauperis in his first two cases (14-CV-43-H-DLC-JTJ and 14-CV-185-M-DLC-JCL), he could not be granted leave to proceed in forma pauperis in this his third case, without demonstrating that he is in imminent danger of serious physical injury. *See* June 23, 2015 Order, Doc. 3 citing Local Rule 3.1(d)(4). Poulson's filings did not demonstrate that he was in imminent danger of serious physical injury, therefore,

he was given notice of the Court's Local Rule regarding having more than two pending in forma pauperis actions and gave him the opportunity to:

- (A) to show that he is in imminent danger of serious physical injury;
- (B) to pay the full filing fee for one or more of the pending or proposed actions;
- (C) to dismiss voluntarily, pursuant to Fed. R. Civ. P. 41(a)(1), one or more pending actions in which the prisoner is proceeding in forma pauperis; or
- (D) to withdraw one or more of the actions for which leave to proceed in forma pauperis is sought.

See June 23, 2015 Order, Doc. 3 citing Local Rule 3.1(d)(4).

Poulson filed no response to the Court's Order. Accordingly, for the reasons set forth in the Court's Order of June 23, 2015 (Doc. 3) and based upon Poulson's failure to comply with the June 23, 2015 Order (*See Fed.R.Civ.P. 41(b); Malone v. U.S. Postal Service*, 833 F.2d 128 (9th Cir. 1987)(a court may dismiss an action, with prejudice, for failure to obey a court order)), the Court issues the following

RECOMMENDATIONS

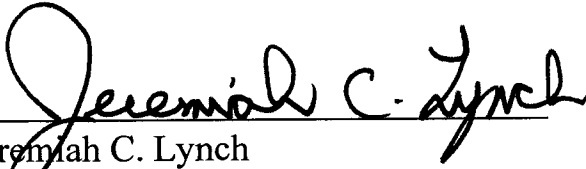
1. Poulson's Motion to Support Imminent Danger (Doc. 2) as construed as a Motion to Proceed in Forma Pauperis should be DENIED.

2. The Clerk of Court should be directed to close this matter within thirty days of the Order adopting these Findings and Recommendations should Poulson

not pay the \$400.00 filing fee.

3. At all times during the pendency of this action, Poulson shall immediately advise the Court of any change of address and its effective date.

DATED this 20th day of July, 2015.


Jeremiah C. Lynch
United States Magistrate Judge